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SUBJECT: IAEA/BOG: MESA REBUFFS KAZAKHSTAN; AFGHANISTAN FORGES ON

REF: A) UNVIE 445 AND PREVIOUS B)
PAPPAS-DANIEL/VONBEHREN EMAIL 7/22/2008

Classified By: Ambassador Gregory L. Schulte for reasons 1.4 b and d

Summary

¶11. (C) Acting on instructions, Kazakhstan sought to present its candidacy for the 2008-2010 open MESA seat on the Board of Governors to Indian MESA Chair Kumar, but was rebuffed by Kumar who disputed Kazakhstan's eligibility and bona fides as a MESA group member. The IAEA Statute is silent on MESA group membership, and a 1997 list of regional groups that included Kazakhstan under MESA has not been formally adopted and will be considered only in tandem with the ratification of Article VI expanding the Board. The Secretariat stands by this list but advises that, unless MESA accepts Kazakhstan, the group could challenge any Kazakh bid in the General Conference. The Secretariat has advised Kazakhstan to request group membership, but Kumar denies he has the authority to propose it. Syria would likely seek to block Kazakhstan's addition to MESA if it were brought to the group. MESA will meet August 14 to consider Syria and Afghanistan's candidacies but no resolution is expected; another meeting is possible prior to the GC. Afghanistan faces opposition from Pakistan within MESA and is actively campaigning beyond the group, poised for a GC vote. Kumar sees no prospect of Syria withdrawing unless it can be convinced that it would lose in the General Conference. Mission recommends backing Afghanistan given the unlikely-to-be-resolved questions over Kazakhstan's MESA membership. End Summary.

MESA Rebuffs Kazakhstan

¶12. (C) Kazakh Ambassador Abdrakhmanov informed Ambassador Schulte on August 12 that, following the Secretary's phone call to his Foreign Minister, he had been instructed to submit Kazakhstan's candidacy to the MESA group for the 2008-2010 Board of Governors seat, which is now contested by Syria and Afghanistan. However, Indian Board Chair Ambassador Kumar effectively rebuffed Abdrakhmanov's request on the premise that Kazakhstan is not recognized as a member of the MESA group. In a follow up discussion with Ambassador Schulte on August 13, Kumar argued that Kazakhstan is therefore not eligible to run for the MESA seat. He noted that Kazakhstan has not participated in any group consultations in the past and has not been invited to MESA meetings, including that on August 14 which will consider Afghanistan and Syria's candidacies. Kumar also refused to countenance any request by Kazakhstan to join the MESA group, arguing that this was an issue for the Board or General

Conference to decide because MESA was a "statutory area." He claimed not to have the authority to consider Kazakhstan's application. The IAEA Secretariat of the Policy-Making Organs took the opposite view, that the decision would be up to MESA, and has so advised Kazakhstan.

¶3. (C) The IAEA Statute (Article VI) does not stipulate the membership of the eight regional areas represented on the Board of Governors. A list of regional areas or groups was first developed in 1997 (GC/41/11), in the context of the General Conference debate on amending Article VI. This list clearly shows Kazakhstan and Uzbekistan as members of the MESA group (and would extend to two other Central Asian countries that have since joined the Agency, Kyrgyzstan and Tajikistan.) According to the Secretariat, the list was tacitly agreed at the time though it has not been formally adopted by the Board or General Conference. The mechanism for doing so was laid out in the 1999 Amendment to Article VI of the Statute, to expand the Board (GC 43/RES/19.) It stipulates that the Amendment would enter into force upon its ratification and the adoption of this list of regional groups by a 90 percent vote in both the Board and General Conference. This provision was part of a deal brokered at the time that would allow Israel to be formally recognized as a member of MESA in exchange for agreement to expand the Board. The Amendment to Article VI has not yet been ratified by two-thirds of the member states and thus the list has not been brought to the Board/GC for a vote. Nevertheless, the Secretariat uses it as a reference point. (Note: Prior to the development of this list, group membership was "by tradition," as it is elsewhere in the UN system. End note.)

¶4. (C) The Secretariat stands by the list, but acknowledges

that as a practical matter, Kazakhstan must be accepted by the MESA group or face potential complications in the General Conference. Under Rule 79 of the General Conference Rules of Procedure, election to the Board of Governors is by secret ballot and there are no nominations (i.e. Kazakhstan cannot nominate itself.) Member states can technically vote for any eligible member of the group (excluding those already on the Board or just completing their term.) However, Rule 85 (d) stipulates that a vote for a country which is not a member of the group would be invalid. According to the IAEA Legal Office, if the General Conference voted for Kazakhstan, the MESA group could challenge this ballot if it did not recognize Kazakhstan as a group member. While Kazakhstan could "petition" the Board or General Conference to be considered a member of MESA, the MESA group could also challenge any Board/GC decision being imposed on the group.

¶5. (C) The Secretariat has thus counseled Kazakhstan to approach the group and discounts Kumar's protestations that the Chair does not have the authority to consider a request for group membership. If the Chair refuses, Kazakhstan can also approach other group members to make its case, the Secretariat advised. However, if the group were to make a decision on Kazakhstan's membership, there is no guarantee that it would be affirmative. Syria, hearing of Kazakhstan's interest, requested that the Chair provide an "official" list of group members. Excluding the Central Asians, nine of the remaining 15 MESA members are Arab states plus Iran. Kumar also tried to claim that Kazakhstan had been participating in Eastern Europe group consultations. The Secretariat confirmed that Kazakhstan does not participate in the Eastern Europe group and does not appear on the rotation scheme for Eastern Europe Board membership for 2006-2016 (Note: Armenia and Azerbaijan are part of Eastern Europe. End Note).

¶6. (C) Comment: Kazakhstan is left in a statutory limbo, a "lacuna," as the Indian Chair called it. If the MESA group does not accept it, Kazakhstan and the three other Central Asian IAEA-member countries, have the same status as Israel; excluded from any regional group and ineligible to run for the Board. End Comment.

¶ 7. (C) Setting aside the "weight" of the Afghan or Kazakh candidacies, Kumar advised Ambassador Schulte that an up or down vote on Syria versus Afghanistan would be more straightforward without the additional complication of determining group membership. Afghanistan has been a MESA member since its inception. Kumar also indicated that Sri Lanka has expressed an interest in running for the MESA seat but has not put forward its candidacy. Kumar has encouraged the Afghan CDA's lobbying efforts, and counseled that Afghanistan needed to appear as a "serious candidate," not a last minute challenger to Syria. Neither Kumar nor Afghan CDA Monawar expected the MESA group to come to any consensus on August 14. Time permitting, there would probably be another MESA meeting before the General Conference.

¶ 8. (C) Kumar also saw no prospect of Syria withdrawing from the race unless it can be convinced that it would lose a GC vote in an embarrassing defeat to Afghanistan. Monawar is preparing for such a vote as he sees no prospect of consensus in MESA. In addition to Syria and Iran, he fully expected Pakistan to oppose Afghanistan's candidacy and explained that there was a bilateral issue of Pakistan having dumped nuclear waste in Afghanistan during the Taliban era. Pakistan circulated a dipnote on August 12 "reminding" MESA members that Syria had earlier put its candidacy forward and stipulating that Pakistan would run for the next Board, in accordance with its "established pattern" of serving every other term (i.e. since the Statute prohibits consecutive terms for elected members.)

¶ 9. (C) Monawar also provided Acting Counselor more insight as to why Afghanistan is seeking the MESA seat. In addition to 5 million USD in IAEA technical cooperation projects, he sees Board membership as leverage over Iran and asked Mission to advise Washington that Afghanistan wants to position itself on the Board as a regional "bridge" to the West. Monawar also planned to praise the India nuclear deal in the August 14 MESA meeting as a benefit to the nonproliferation regime.

¶ 10. (C) Seeing MESA as a "lost cause," Monawar has already approached some GRULAC members and reported that Brazil is very opposed to Syrian Board candidacy. Acting Counselor encouraged him to seek African support, beginning with South Africa, if it comes to GC vote. Japan also continues to be solicitous and helpful to Afghanistan (in part lobbying for Permrep Amano's DG candidacy). Acting Counselor broached the issue of Afghanistan's MESA candidacy with the French EU Presidency on August 12. French CDA was open to supporting Afghanistan as an alternative to Syria, especially if the Secretariat could not sort out Kazakhstan's group membership. The Italian Ambassador told Ambassador Schulte that the EU would certainly side with Afghanistan over Syria.

Comment

¶ 11. (C) Given the lack of clarity about Kazakhstan's group membership on the part of the Secretariat and MESA, Mission sees little prospect for Kazakhstan to have a "clean" vote in the General Conference. With this question mark over Kazakhstan, Mission recommends fully backing Afghanistan in light of its eagerness to serve on the Board and pro-U.S. positions. Afghanistan can rally EU, like-minded and most GRULAC support as an alternative to Syria and some Arab states may also vote for Afghanistan since this would be a secret ballot (Note: The heated debate on the Arab League Israeli Nuclear Capabilities Resolution in the GC could, however, cause the Arabs to close ranks. End note.) Afghanistan would need to rally Africa and Asia group support and split the NAM. The best case scenario would be for Afghanistan to garner enough support to convince Syria to withdraw prior to the GC. Failing that, there can be no guarantee of success in a GC vote, but Afghanistan has a decent chance. We can also urge Kazakhstan to clarify its MESA status after the GC so that it can be poised to run in

2009 when two MESA seats will be open.
SCHULTE